

APPLICATION FOR CONSTRUCTION PERMIT FOR
NONCOMMERCIAL EDUCATIONAL BROADCAST STATION
(Carefully read instructions before filling out Form—RETURN ONLY FORM TO FCC)

For Commission Use Only
File No. BPED-860509mt

RECEIVED

Section I

MAY 22 1986

General Information

MAY 9 - 1986

1. Name of Applicant

Virginia-West Virginia Community
Radio, Inc.

AUDIO SERVICES

Street Address

FCC
Office of the Secretary

Post Office Box 889

City

Blacksburg

State

VA

ZIP Code

24060

Telephone No.

(Include Area Code)

(703) 552-4252

Send notices and communications to the following named person at the address below:

Name

Vernon H. Baker (above),
with a copy to:
Booth, Freret & Imlay

Street Address

1920 N Street, N.W. #1520

City

Washington

State

D.C.

ZIP Code

20036

Telephone No.

(Include Area Code)

(202) 296-9100

2. This application is for: ☐ AM ☒ FM ☐ TV

(a) Channel No. or Frequency: 90.9 MHz

(b) Community of license:

City

State

Bluefield

W.V.

(c) Check one of the following boxes:

- ☒ Application for new station
☐ Major Change in Existing station; call sign: _____
☐ Minor Change in Existing station; call sign: _____
☐ Modification of Construction Permit; File No. of CP: _____
☐ Amendment to Pending Application; Reference Number (ARN): _____

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

3. Is this application mutually exclusive with a renewal application?

☐ YES ☒ NO

If Yes, State:

Call letters:

Community of license:

City

State

Section VI

Equal Employment Opportunity Program

1. Does the applicant propose to employ five or more fulltime employees?

☐ YES ☒ NO

If the answer is Yes, the applicant must include an EEO program called for in the separate 5 Point Model EEO Program [FCC Form 396 (A)].

Section VII

Certification

1. Has or will the applicant comply with the public notice requirement of Section 73.3580 of the Commission's Rules?

☒ YES ☐ NO

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and are incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the APPLICANT has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in information furnished.

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT.
U.S. CODE, TITLE 18, Section 1001.**

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this 30th day of April, 19 86.

Virginia-West Virginia Community Radio, Inc.

Name of Applicant

Virginia L. Baker

Signature

Director

Title

**FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT
AND THE PAPERWORK REDUCTION ACT**

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, accountants, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information. Your response is required to obtain the requested Permit.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

EXHIBIT 8



FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

MARTINSVILLE COMMUNITY WORKSHOP INC.
P.O. BOX 889
BLACKSBURG, VA 24060

Authorizing Official:

Dale E. Bickel
Supervisory Engineer, FM Branch
Audio Services Division
Mass Media Bureau

Grant Date: 14 NOV 1991

Call sign: 860130MG

This permit expires 3:00 am.
local time 18 months after
grant date specified above

Permit File No.: BPED-860130MG

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of permittee:

MARTINSVILLE COMMUNITY WORKSHOP INC.

Station Location:

VA-MARTINSVILLE

Frequency (MHz): 90.5

Channel: 213

Class: A

Call sign: 860130MG

Permit No.: BPED-860130MG

Hours of Operation: Unlimited

Transmitter location (address or description):

KTS - 249 Tower on Route 57, 300 meters east of Martinsville
City limits, Virginia

Transmitter: Type accepted. See Sections 73.1660, 73.1665 and 73.1670
of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: (directional or non-directional): Directional

Antenna coordinates: North Latitude: 36 42 16.0
West Longitude: 79 50 6.0

Horizontally Polarized Antenna	Vertically Polarized Antenna
--------------------------------------	------------------------------------

Effective radiated power in the horizontal plane (kW) :	4.3	4.3
----------------------------------------------------------------------	-----	-----

Height of radiation center above

Hours of Operation: Unlimited

Transmitter location (address or description):

5.6 MILES NW OF LEWISVILLE, NC NEAR LOGAN CREEK AND FORBUSH
ROAD.

Transmitter: Type accepted. See Sections 73.1660, 73.1665 and 73.1670
of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: (directional or non-directional): Directional

Antenna coordinates: North Latitude: 36 08 6.0
West Longitude: 80 30 14.0

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the horizontal plane (kW) :	20.0	20.0
Height of radiation center above ground (meters) :	46.0	46.0
Height of radiation center above mean sea level (meters) :	272.0	272.0
Height of radiation center above average terrain (meters) :	21.0	21.0
Overall height of antenna structure above ground (including obstruction lighting, if any) :	58.0 meters	

Obstruction marking and lighting specifications for antenna
structure:

It is to be expressly understood that the issuance of these specifications
is in no way to be considered as precluding additional or modified marking
or lighting as may hereafter be required under the provisions of Section
303(q) of the Communications Act of 1934, as amended.

None Required

OF

ARTICLE I

MARTINSVILLE COMMUNITY WORKSHOP INC.

The purposes for which the Corporation is to be formed are for scientific, educational, and charitable purposes within the meaning of §501(c)(3) of the Internal Revenue Code of 1954 and in this connection, to conduct an Educational Outreach by producing and/or distributing literature, books, radio and television tapes, records and music; to purchase radio and television time for programming; to conduct seminars, hold radiothons and television promotions; to support community projects for the needy as funds are available; to own real estate for the purpose of conducting the Corporation's business; and to do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its directors or officers except as permitted under the law. In furtherance

The Corporation is constituted so as to attract substantial support from contributions, directly or indirectly, from a representative number of persons in the community in which it operates and has not been formed for pecuniary profit or financial gain, and no part of the assets, income, or profit of the Corporation is distributable to, or inures to the benefit of its directors or officers except to the

Virginia 24060. The initial registered office is located in Montgomery County, Virginia. The name of its registered agent is Virginia L. Baker, who is a resident of Virginia and who is a Director of the Corporation, and whose business office is the same as the registered office of the Corporation.

The number of Directors constituting the initial Board of Directors is three, and the names and addresses of the persons who are to serve as the initial Directors are:

Ms. Virginia L. Baker
147 Jackson Street
Blacksburg, Virginia 24060

Dr. Joanne Whitley
Patrick Henry Community College
Martinsville, Virginia 24112

Dr. Vernon H. Baker
147 Jackson Street
Blacksburg, Virginia 24060 .

ARTICLE VI

In the event of dissolution, all of the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to such organizations as shall qualify under §501(c)(3) of the Internal Revenue Code of 1954, as amended.

ARTICLE VII

The Corporation shall indemnify each Director and Officer against liabilities, including judgments, fines, and reasonable attorney's fees, costs and expenses, incurred by him in connection with any actual or threatened action, suit or proceedings, whether civil, criminal, administrative, arbitative, or investigative, (any of which is hereinafter referred to as a "proceeding") to which he may be made a party by reason

EXHIBIT 9



FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

POSITIVE ALTERNATIVE RADIO, INC.
P.O. BOX 889
BLACKSEURG, VA 24060

Authorizing Official:

Sharon M. Bertelsen
Sharon M. Bertelsen
Supervisory Attorney, FM Branch
Audio Services Division
Mass Media Bureau

Grant Date: 21 MAY 1992

Call sign: 901119MC

This permit expires 3:00 am.
local time 18 months after
grant date specified above

Permit File No.: BPED-901119MC

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of permittee:

POSITIVE ALTERNATIVE RADIO, INC.

Station Location:

NC-WINSTON-SALEM

Frequency (MHz): 91.3

Channel: 217

Class: C3

Special operating conditions or restrictions:

1. During the installation of the antenna authorized herein, AM Station (s) listed below shall determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point values within authorized limits. Upon completion of the installation, common point impedance measurements on the AM array shall be made and a partial proof of performance, as defined by Section 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission (along with a tower sketch of the installation) in an application for the AM station to return to the direct method of power determination.
(Revised January 28, 1983)

WSGH(AM)

2. BEFORE PROGRAM TESTS ARE AUTHORIZED, permittee shall submit the results of a complete proof-of-performance to establish the horizontal plane radiation patterns for both the horizontally and vertically polarized radiation components. This proof-of-performance may be accomplished using the complete full size antenna, or individual bays therefrom, mounted on a supporting structure of identical dimensions and configuration as the proposed structure, including all braces, ladders, conduits, coaxial lines, and other appurtenances; or using a carefully manufactured scale model of the entire antenna, or individual bays therefrom, mounted on an equally scaled model of the proposed supporting structure, including all appurtenances. Engineering exhibits should include a description of the antenna testing facilities and equipment employed, including appropriate photographs or sketches and a description of the testing procedures, including scale factor, measurements frequency, and equipment calibration.

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3. BEFORE PROGRAM TESTS ARE AUTHORIZED, permittee shall submit an affidavit from a licensed surveyor to establish that the directional antenna has been oriented at the proper azimuth.

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The relative field strength of neither the measured horizontally nor vertically polarized radiation component shall exceed at any azimuth the value indicated on the composite radiation pattern authorized by this construction

EXHIBIT 10

Modesto Hearing

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 90M-1347

04181

In re Applications of	)	MM DOCKET NO. 90-68
)	
MODESTO BROADCAST GROUP	)	File No. BPH-880229MB
)	
HARRY S. McMURRAY	)	File No. BPH-880301MP
)	
MODESTO COMMUNICATIONS CORPORATION	)	File No. BPH-880301NC
)	
JUAN MANUEL AYALA	)	File No. BPH-880301NF
)	
EILEEN S. LAPIN, DOUGLAS M. LAPIN and)	
STANLEY P. LAPIN d/b/a LAPINCO	)	File No. BPH-880301NJ
)	
JUAREZ and FLORES, INC.	)	File No. BPH-880301OJ
)	
BCD LIMITED PARTNERSHIP	)	File No. BPH-880301OS
)	
THOM REINSTEIN COMMUNICATIONS,)	
A CALIFORNIA LIMITED PARTNERSHIP	)	File No. BPH-880301OU
)	
PAMELA R. JONES	)	File No. BPH-880301OY
)	
For Construction Permit for a)	
New FM Station on Channel 230A)	
in Modesto, California)	

MEMORANDUM OPINION AND ORDER

Issued: May 23, 1990

; Released: May 25, 1990

1. Under consideration are a "Petition to Enlarge Issues Against Pamela R. Jones" filed by Thom Reinstein Communications, A California Limited Partnership (Reinstein) on April 13, 1990; "Pamela R. Jones Opposition to Reinstein Petition to Enlarge" filed by Pamela R. Jones (Jones) on April 26, 1990; and a reply pleading filed by Reinstein on May 8, 1990.

2. Reinstein requests that the following issues be added against Jones:

To determine whether Pamela R. Jones filed her application in violation of Sections 73.3555 and 73.3518 of the Commission's Rules;

(5/25/90) 1060 Adding Jones Issues

To determine whether Pamela R. Jones has violated Section 1.65 of the Commission's rules in connection with her failure to timely amend her application to update the status of her media interests;

To determine whether Pamela R. Jones had a reasonable basis at the time she filed her Modesto application on which to certify that she was financially qualified, and, if not, whether her financial certification was false; and

To determine, in light of the evidence addressed in the foregoing issues, whether Pamela R. Jones possesses the basic qualifications to be a Commission licensee.

3. In support of its request, Reinstein alleges the following facts: That Jones filed her Modesto application on March 1, 1988, reporting therein that she was an applicant for Nags Head, North Carolina (BPH-861014TA); that on March 23, 1988, Jones amended her application reporting the filing of an application for Carlsbad, New Mexico (File No. BPH-880323MK) in which she had a 49 percent interest; in a June 6, 1988, amendment, Jones reported that she filed six additional applications for new FM stations as follows: Fort Wayne, Indiana (File No. BPH-880421MR), Olathe, Kansas (File No. BPH-880421NK), Macon, Georgia (File No. BPH-880421NL), Virginia Beach, Virginia (File No. BPH-880505NR), Roanoke, Virginia (File No. BPH-880602OL), and Bixby, Oklahoma (File No. BPH-880602OK). In an amendment to her Modesto application filed March 14, 1989, Jones reported that she had filed five more FM applications as follows¹: Ellettsville, Indiana (File No. BPH-880725ML), Brownsburg, Indiana (File No. BPH-880725MF), Homewood, Alabama (File No. BPH-880811MJ), Lexington, Kentucky (File No. BPH-880811MG), and Bethalto, Illinois (File No. BPH-880811MP). She additionally reported that her application for Nags Head, North Carolina, had been voluntarily dismissed.² Reinstein argues that because

processes. Specifically, it is alleged that Jones has "played fast and loose with the Commission's Rules," and this calls into question her basic qualifications.

4. With respect to the request for a Section 1.65 issue, Reinstein alleges that Jones did not timely amend to report her other applications, and that she previously had reporting issues specified against her in connection with prior applications for Roanoke, Virginia (BPCT-820415KL) and Pensacola, Florida (BPCT-820415KJ) filed by Telecommunications Partners, Ltd. The request for a financial issue is based on the fact that the filing of the 13 applications in such a short period of time by Jones raises questions whether the applicant has sufficient funds to simultaneously construct and operate all 13 stations.

5. Jones opposes the request to enlarge issues. She argues that there is no violation of the inconsistent applications or multiple ownership rule because Jones only has a minority (49 percent) interest in the Carlsbad application; that she stated in her Lexington, Kentucky, application that she will divest her interest in Carlsbad Communications Partners if her Kentucky application is granted; and that under Big Wyoming Broadcasting Corp., 2 FCC Rcd 3493 (1987), because the minority interest Jones had in the Carlsbad application will be divested, there is no violation of the inconsistent application rule. With respect to the requested Section 1.65 issue, Jones argues that the filing of her applications were a matter of record with the Commission; that her untimely amendment does not constitute disqualifying conduct, and that there is no basis for adding a Section 1.65 issue. Regarding the request for a financial issue, Jones argues that no showing has been made by Reinstein that she is financially unqualified; and that no Commission case supports addition of a financial issue.

6. Jones' arguments regarding the request for a financial issue are



numerous broadcast applications. It is also clear that a reporting issue was previously designated against an applicant with which Jones was associated. It also appears that Jones did not timely respond to a directive in the Hearing Designation Order (DA 90-196 at paragraph 15) requiring an amendment of her application. The Presiding Judge is unable to determine, on the basis of the pleadings, whether the reporting deficiencies committed by Jones are disqualifying. Thus an appropriate issue will be specified.³

8. Finally, the arguments made by Jones regarding the inconsistent application rule and the multiple ownership rule are not persuasive. In this connection, the staff recently returned the Homewood, Alabama, application of Jones as being in violation of Sections 73.3555(a) and 73.3518 of the Commission rules. (See April 27, 1990, letter attached to Reinstein's reply pleading). Thus, while the total number of applications now on file by Jones does not violate the rules, the question of whether such violations occurred with respect to the applications filed by Jones must be explored. Moreover, while Jones argues that her minority interest in the Carlsbad application and her divestment commitment takes her filings outside the rules, this apparently was not the position of the staff when it returned the Homewood, Alabama, application. Furthermore, the claim of minority interest in the Carlsbad application on the part of Jones may require further scrutiny. Specifically, the holder of the other 51 percent is Michael Wilhelm who is Jones lawyer in this and her other pending applications. Also, Mr. Wilhelm has been associated with Jones in other applications filed with the Commission. The filing of these applications and the facts attendant thereto must be explored to determine whether violations of the Commission's rules have been committed, and whether Jones has abused the processes of the Commission.

Accordingly, IT IS ORDERED that the "Petition to Enlarge Issues Against Pamela R. Jones" filed by Thom Reinstein Communications, A California Limited Partnership on April 13, 1990, IS GRANTED to the extent reflected herein, and the following issues are added to this proceeding:

To determine the facts and circumstances regarding the filing of the numerous applications by Pamela R. Jones, and, based thereon, whether she has violated the provisions of Section 73.3555

3 The Hearing Designation Order does not indicate that the reporting failures were ever considered prior to designation. They are, therefore, matters that may be considered by the Presiding Judge. See, Frank H. Yemm, 39 RR 2d 1657 (1977); Atlantic Broadcasting Co., 5 FCC 2d 717, 721 (1966); Fidelity Radio Inc., 1 FCC 2d 661 (1965). Thus, Jones' argument to the contrary is rejected.

and Section 73.3518, and/or abused the Commission's processes;⁴

To determine whether Pamela R. Jones has violated Section 1.65 of the Commission's rules in connection with her failure to timely amend her application to update the status of her media interests;

To determine whether Pamela R. Jones is financially qualified to build and operate her proposed station, particularly in light of her other pending applications, and whether her financial certification was/is false.

IT IS FURTHER ORDERED that because the facts necessary to resolve these issues are peculiarly within the knowledge of Pamela R. Jones, the burden of proceeding AND the burden of proof WILL REST with Pamela R. Jones.

FEDERAL COMMUNICATIONS COMMISSION



EXHIBIT 11

RECEIVED

REDDY, BEGLEY & MARTIN

DEC 13 1987

Warner Robins binder

12/4/87

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andled by

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

12

FCC 87M-3159

In re Applications of

Bible Baptist Temple, Inc. d/b/a
WARNER ROBINS CHRISTIAN ACADEMY
Warner Robins, Georgia

AUGUSTA RADIO FELLOWSHIP INSTITUTE, INC.
Byron, Georgia

For Construction Permit for a
New FM Station on Channel 213C1

MM Docket No. 87-386

File No. BPED-850924MI

File No. BPED-860422MA

1043

MEMORANDUM OPINION AND ORDER

Issued: December 3, 1987; Released: December 4, 1987

1. Under consideration is a Motion to Enlarge Issues filed October 26, 1987 by Warner Robins Christian Academy ("Warner") and responsive pleadings.

2. Warner seeks a financial issue against Augusta Radio Fellowship Institute, Inc. ("Augusta"). Warner alleges that since it filed its application in this proceeding, Augusta has filed for additional applications for construction permits for new noncommercial educational FM stations. In each case Augusta certified that it is financially qualified to construct and operate. Warner argues that the number of applications filed by Augusta raises a substantial question regarding its financial capability to construct and operate its Byron station. Warner notes that Augusta is a nonprofit corporation which relies on contributions to meet operating costs and debt service.

3. In response Augusta argues that Warner's charge is speculative and distinguishes the cases cited by Warner. It also states that it presently is a licensee and based on its experience as an FCC licensee it is cognizant of FCC requirements and reaffirms its financial qualifications to build all stations for which it has applied. No other data is supplied.

4. Given the number of broadcast applications and the costs of construction and operation associated therewith. plus the fact that

the funds needed for the other broadcast facilities applied for. George Edward Gunter, 104 FCC 2d 1363, 1367 (Rev. Bd. 1986). Augusta has not provided any documentation that it would obviate the need for inquiry. The requested issue will be added.

Accordingly, IT IS ORDERED that the Motion to Enlarge Issues filed October 26, 1987 by Warner Robins Christian Academy IS GRANTED and the following issue IS ADDED:

Whether Augusta is financially qualified to construct and operate its proposed station at Byron, Georgia, in light of its subsequent certifications of the availability of funds to construct and operate new noncommercial educational FM stations at Jessup, Vidalia and Leesburg, Georgia; and Florence, South Carolina.

IT IS FURTHER ORDERED that because the information necessary to resolve these issues is solely within the knowledge of Augusta, the burden of proceeding and burden of proof on the added issue WILL BE on Augusta.

FEDERAL COMMUNICATIONS COMMISSION

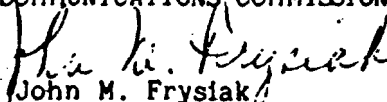

John M. Frysiak
Administrative Law Judge

EXHIBIT 12

Before the
Federal Communications Commission
Washington, D. C. 20554

FCC 87M-2185
4639

In re Applications of	)	MM DOCKET NO. 87-222
)	
SUSAN LUNDBORG	)	File No. BPH-850712TF
)	
EUREKA CHRISTIAN BROADCASTING, INC.	)	File No. BPH-850712Z7
)	
For Construction Permit)	
for a New FM Station in)	
Eureka, California)	

MEMORANDUM OPINION AND ORDER

Issued: September 11, 1987 ; Released: September 14, 1987

1. Under consideration are the following: (1) "Motion to Enlarge Issues" filed August 10, 1987, by Eureka Christian Broadcasting, Inc. (Eureka), and (2) "Opposition to Motion to Enlarge Issues" filed September 3, 1987, by Susan Lundborg (Lundborg). 1/

2. Eureka, pursuant to Section 1.229 of the Commission's rules, 47 C.F.R. 1.229, requests the Presiding Judge to enlarge the issues in this proceeding to determine whether Lundborg failed to answer truthfully certain questions in her permit application and, if so, the effect on her basic qualifications to be a Commission licensee. It is undisputed that Lundborg filed her application for a new FM station in Eureka, California, on July 12, 1985, and that, in response to questions 6(b) and 7(e) of Section II of the Permit Application (FCC Form 301), she reported that she did not have any broadcasting applications pending before this Commission. It is also undisputed that Lundborg had filed, one day previously, three construction permit applications for new FM stations at Julian, California (File No. BPH-850711MQ); Abilene, Texas (File No. BPH-850711OR) 2/; and Grand Junction,

1/ The Presiding Judge recognizes that Eureka and Lundborg have entered into an "Agreement" which looks to the dismissal of the Lundborg application.

~~2/ The Commission, to date, have not filed their joint request for~~

Colorado (File No. BPH-850711NF). 3/ It is also undisputed by Lundborg that, on the same date, July 12, 1985, she filed her Eureka application, she also filed eight other FM permit applications for the following communities: Elwood, California (File No. BPH-850712WT); San Joaquin, California (File No. BPH-850712TE); Reno, Nevada (File No. BPH-850712TU) 4/; Bay Shore, New York (File No. BPH-850712VE) 5/; Brigham City, Utah (File No. BPH-850712ZO); South Padre Island, Texas (File No. BPH-850712R8); Fargo, North Dakota (File No. BPH-850712Z6) 6/; and Texarkana, Arkansas (File No. BPH-850712U4).

3. Lundborg acknowledges that she failed to disclose the filing of the other 11 applications, explaining that when she executed the Eureka application, she "did not understand" that the application form called for such information. The Presiding Judge is not persuaded with this explanation. Section 73.3514(a) of the Commission's rules (47 C.F.R. 73.3514(a)) requires applicants for new broadcast facilities to provide all information called for by the FCC form unless such information is inapplicable. Questions 6(b) and 7(e) of Section II of FCC Form 301 specifically ask the applicant whether it has any broadcast applications pending before this Commission and, if so, to supply an exhibit detailing the file number, locations and nature of such applications. The Commission must rely upon the accuracy and truthfulness of the applications filed before it. The cited questions are unequivocal as to the information sought and a lay person, certainly, should be able to comprehend and respond properly. One does not need an attorney to interpret these questions. The fact that Lundborg subsequently, on February 4, 1986, and December 8, 1986, amended her application to report the pendency of these other applications does not resolve the question of nondisclosure. For this reason, the following appropriate issues are specified, infra, relative to this matter. 7/

3/ The FM applications for Julian, California, and Grand Junction, Colorado, were subsequently dismissed by the Commission.

4/ This FM application has been designated for hearing in MM Docket No. 87-316.

5/ This FM application has been designated for hearing in MM Docket No. 87-246.

6/ Judge Walter C. Miller, by Memorandum Opinion and Order (FCC 87M-1770, released July 24, 1987), dismissed Lundborg's application, granted a joint petition for approval of agreement, and dismissed the proceeding. Pursuant to

IT IS FURTHER ORDERED that, since the facts relative to these questions are peculiarly within the possession of Susan Lundborg, the burden of proceeding with the introduction of evidence and the burden of proof shall